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OFFICE OF PETITIONS

In re Application of
Carol M. Rines et al.
Application No. 09/039,176
Filed: March 13, 1998
Attorney Docket No. n/a

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed June 24, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed October 18, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 has been obtained. Accordingly, the application became abandoned on January 19, 2003.

Petitioner has submitted a Continued Prosecution Application (CPA) as a reply to the outstanding office action. 37 CFR 1.53(d)(1) was amended to provide that the prior application of a CPA must be: (1) a utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, (2) a design application, or (3) the national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000. See *Changes to Application Examination and Provisional Application Practice*, final rule: 65 Fed. Reg. 50092 (August 16, 2000), 1238 Off. Gaz. Pat. Office 13 (September 5, 2000); interim rule: 65 Fed. Reg. 14865, 14872 (March 20, 2000), 1233 Off. Gaz. Pat. Office 47, 52 (April 11, 2000). Applicant submitted an earlier CPA on April 4, 2000 and July 5, 2001. Accordingly, a CPA of this application is not permitted under 37 CFR 1.53(d)(1) and the improper request for a CPA is being treated as a request for continued examination (RCE) under 37 CFR 1.114. See *id.* at 14866, 1233 Off. Gaz. Pat. Office at 48.

The application file is being forwarded to Technology Center AU 2652 for processing the Request for Continued Examination (filed as a CPA) pursuant to 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 308-6911.

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